
(1999) 07 MAD CK 0120
In the Madras High Court
Case No : Writ Petition No. 11965 of 1999

Smt. Vijaya

APPELLANT

Vs

The District Collector and Others

RESPONDENT

Date of Decision : 14-07-1999

Acts Referred:

Citation : (1999) 07 MAD CK 0120

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : Thamizharasan, for the Appellant; G. Sankaran, Government Advocate, for the Respondent

Judgement

P.D. Dinakaran, J.—Petitioner seeks a writ of Mandamus, forbearing the Respondents from evicting the Petitioner from his residence and site bearing door No. 5/73, Pandiyan Street, Vadakkupatti Village, Periyar Nagar Extension, situate in R.S. No. 261 of Eriporamboke, Madavakkam Village in Pailikaramai Firka, Tambaram Taluk, Kancheepuram District.

2. Mr. A. Thamizharasan, learned Counsel for the Petitioner states that what the Petitioner requires is only an alternative accommodation if the Petitioner is evicted from the land in question. The learned Counsel for the Petitioner, further contends that the Petitioner as a matter of right, can seek for alternative accommodation if the Respondents propose to evict him from the land in question.

3. Per contra, Mr. G. Sankaran, learned Government Advocate, placing reliance on the decision in Ahmedabad Municipal Corporation Vs. Nawab Khan Gulab Khan and others, , contends that encroachers cannot, as a matter of right, seek for alternative accommodation.

4. I have given careful consideration to the submission of both sides.

5. It appears that the Respondents 1 and 2 propose to evict the Petitioner from

the land in question as the said land is required by them for laying drainage connection. In my considered opinion, if the Respondents 1 and 2 require the land in question for public purpose, they are at liberty to do so provided they follow the due process of law as contemplated under the relevant statute before ejecting the Petitioner. Therefore, the Respondents are directed to follow the due process of law as contemplated under the relevant statute before ejecting the Petitioner from the land in question. Till such time, parties are directed to maintain status quo prevailing as on date.

6. On the question of alternative accommodation, I am unable to countenance the contention of the learned Counsel for the Petitioner that the Petitioner, as a matter of right, can seek for alternative accommodation if the Respondents propose to evict him from the land in question. In *Ahmedabad Municipal Corporation Vs. Nawab Khan Gulab Khan and others*, , the Apex Court has held as follows:

It is true that in all cases it may not be necessary that he should be provided with an alternative accommodation at the expense of the state which if given due credence, is likely to result in abuse of the judicial process. But no absolute principle of Universal application would be laid in this behalf. Each case is required to be examined on the given set of facts and appropriate direction or remedy be evolved by the Court suitable to the facts of the case. Normally, the Court may not, as a rule, direct that the encroaches should be provided with an alternative accommodation before ejectment when they encroached public properties, but each case requires examination and suitable direction appropriate to the facts requires modulation.

6. Considering the facts and circumstances of the case, I am of considered opinion that the Petitioner cannot claim, as a matter of right, alternative accommodation before ejectment from the property in question. However, this order will not stand in the way of the Petitioner in making a representation to the Respondents to provide alternative accommodation and if the Petitioner makes any such representation the Respondents may consider the same and pass appropriate orders, on merits, within two weeks from the date of receipt of such representation.

7. The writ petition is disposed of accordingly. No costs. Connected W.M.P No. 16995 of 1999 is rejected.